

Approved as Submitted: February 23, 2005

**CITY OF MORGAN HILL  
JOINT SPECIAL AND REGULAR CITY COUNCIL  
AND SPECIAL REDEVELOPMENT AGENCY MEETING  
MINUTES – FEBRUARY 2, 2005**

**CALL TO ORDER**

Mayor/Chairman Kennedy called the special meeting to order at 5:32 p.m.

**ROLL CALL ATTENDANCE**

Present: Council/Agency Members Carr, Grzan, Sellers, Tate and Mayor/Chairman Kennedy

**DECLARATION OF POSTING OF AGENDA**

City Clerk/Agency Secretary Torrez certified that the meeting's agenda was duly noticed and posted in accordance with Government Code 54954.2.

***City Council Action***

**WORKSHOP:**

**1. URBAN LIMIT LINE/GREENBELT STUDY**

Contract Planner Bischoff indicated that in July 2004, the City Council established a schedule by which it would be informed of the progress by the Urban Limit Line (ULL)/Greenbelt Committee (Committee). He stated that this meeting is intended to inform the Council with respect to the Committee's activities; to allow Council to ask questions about the recommendations the Committee has made to date; the process to be followed; and to allow the Council to suggest global changes and/or additions to the recommendations. He said that this is a check-in to determine whether or not the Committee is heading in the right direction and whether it is sufficient to allow them to conduct a community workshop to solicit input. He indicated that staff is requesting that the Council authorize the Committee to conduct the workshop and then complete its recommendation to the Council. When this item returns to the Council in the future (April), staff will be asking to make specific changes. At this time, it would be appropriate for the Council to hear from property owners and others about parcel specific changes being requested. The Council would then authorize staff to proceed with the environmental review. He informed the Council that the adoption of this effort will not occur until the environmental review is completed in fall 2005.

Mayor Kennedy acknowledged that in attendance this evening were many of the Committee members as well as property owners, interest groups and Planning Commissioners. He stated that he would reserve time for public comment. However, he stressed that the primary purpose of this meeting is to give the Council an opportunity to understand the work of the Committee. Therefore, this is not the time to address specific property issues as there will be adequate workshops to do so. He said that it is important for the Council to understand the work product that is being presented.

Mayor Pro Tempore Tate noted that the process identified by staff gives the public one chance for input at one public session; expressing concern that citizens may not be able to attend the one meeting, or will wait to come directly to the Council. If this occurs, citizen comments will not go back to the Committee before coming to the Council. He stated that he would like to see a process developed where there is every opportunity for citizens to provide public input to the Committee, or have some other mechanism for written comments to be submitted to the Committee.

Mr. Bischoff informed the Council that the public will be able to provide input before the Committee forwards a recommendation to the Council. The public will also have an opportunity to provide input at the Council's hearing on April 2005. He said that the Committee could hold multiple community meetings if so directed by the Council. He stated that it is proposed to allow for written communications to be submitted as part of the process. He informed the Council that every Committee meeting has been open to the public and that they have been well attended. However, he suspects that the attendance has been by property owners as opposed to the public in general. He indicated that upon completion of the environmental review, the project would go before the Planning Commission for a public hearing and move on to the City Council. It was his belief that there would be several opportunities for the public to participate in the process.

Council Member Sellers recommended that the process allow public the opportunity to comment to the Committee before forwarding a recommendation to the Council. The process should include additional advertising and publicity.

Mr. Bischoff summarized the key recommendations of the Committee; addressing: 1) the urban limit line; 2) greenbelt; 3) southeast quadrant area; and 4) Implementation of the Plan. He informed the Council that a letter was attached in the report to the Council from property owners located on the southeast quadrant, requesting seven modifications to the subcommittee's recommendation. He indicated that these seven requested modifications have been addressed in some manner. He said that adoption of a Plan would result in fiscal costs for an industrial study, etc. He said that \$½ million is collected from TDC in lieu fees and some funding from the Open Space Authority, and that there may be other possible funding sources.

Mayor Pro Tempore Tate said that it was his belief that the reason for extending the timeline on this item was to develop an area plan for the southeast quadrant. He noted that staff is recommending that it be authorized to proceed with an area plan for the southeast quadrant. He stated that he did not understand what discussion has taken place by the southeast quadrant committee.

Mr. Bischoff said that the original scope of work approved by the Council for this project dealt with identifying an urban limit line and looking at implementation, in a general sense. The Committee, particularly former Council Member Chang, were adamant that the City needs to look at the issue of implementation in more detail (e.g., what areas/property would be purchased, what specific tools were going to be used, how would a program be administered to accomplish the goal). He said that it was his understanding that a more detailed study on implementation was to be performed. He said that it was not his understanding that the City was to conduct an area plan. He said that an area plan would involve a

lot of work; an expensive undertaking. It was his belief that an area plan would take approximately a year to develop and that the cost would be close to \$½ million.

Mayor Pro Tempore Tate said that it was his belief that the Council would be receiving a concrete plan for the southeast quadrant because the Council extended the timeline for the ULL Committee. He noted that the report did not come to the Council with a solid recommendation in terms of how to proceed with the southeast quadrant or whether there is a need for additional industrial land. It was his belief that this information would be part of the implementation of the General Plan.

Mr. Bischoff clarified that the recommendation states that there is to be 200 acres reserved for industrial use.

Mayor Kennedy said that when the Committee reviewed the southeast quadrant, thought was given to connect the ULL line along the urban service limit line. If the Committee was to have recommended this, it would send a message that the entire 1,200 acres would be developed; eliminating open space as part of the 1,200 acres. The City would have to rely on San Martin to provide an open space buffer in this area. At that time, he suggested that a subcommittee be formed to address this issue. He stated that the subcommittee spent a lot of time working on the best approach with respect to the southeast quadrant. He stated that a lot of effort went into this study in order to come to a basic agreement on the policies and criteria statements. He said that the primary result is the recommendation that an area plan be completed for this area that would allow the criteria to be met. The study was a result of several meetings with the subcommittee and property owners.

Council Member Carr inquired whether one is to assume that everything within the urban limit line, as depicted on the map presented, is to ultimately have urban development.

Mayor Kennedy responded that in general, urban development is proposed with some minor exceptions (e.g., existing parks).

Mr. Bischoff reminded the Council that this is a long term plan; 50-60 years out. He said that these are areas that would be available for urban development purposes.

Council Member Carr noted that it was stated that if the City was to connect the urban limit line to the urban service line, the City would be giving the impression that this entire area is open to development. By this same logic, he felt that everything east of Highway 101 that is not currently within the urban growth boundary would be open to development within the planning line. He noted that this would result in a similar number of acres on the east side of Highway 101. He inquired as to County involvement in this process and how the City should approach the County as it was his belief that the City would need the cooperation from the County to approve the plans.

Mr. Bischoff informed the Council that the County was a partner from the beginning of the project, including the development of the scope of work. They were eager to participate and partner with the City. They particularly wanted to look at hillside development, however, the process took longer than envisioned, indicating that the County's resources are diminishing and that over the last six months; the

County's participation has been reduced. He felt that there remains the commitment, on the County's part, to look at amending their land use regulations. Originally, it was thought the City would have the County adopt this plan as their own. He said that it is beginning to look less likely that this will be possible. He stated that there is a commitment and willingness, on the County's part, to amend their land use regulations. He felt that this was an opportunity the City should not miss.

Council Member Sellers noted that fiscal impacts have been identified from the industrial needs analysis area plan all the way through acquisition and administration. It was stated that there are seven possible opportunities for funding sources. He was not able to connect the initial funding sources with the initial two steps: 1) the needs analysis, and 2) specific plans. He inquired whether staff is envisioning that these two initial steps would be paid from the general fund.

Mr. Bischoff felt that an argument can be made that the industrial needs analysis could be funded by the Redevelopment Agency, assuming there was funding to do as it appears to be a legitimate Redevelopment Agency expense. He said that the preparation of the area plans are not located within the Redevelopment area and would need an independent revenue source. He said that there are no funds available to prepare the area plans. He informed the Council that the City collects a general plan implementation surcharge on planning and building permits that generates some money. However, this funding source is insufficient to prepare an area plan.

Council Member Sellers did not believe that the City has sufficient Redevelopment Agency funds to perform the industrial needs analysis. Further, he did not know whether this is the right use for these funds. Should the City proceed with this and adopts the plan, he inquired whether there would be an expectation, on the part of all involved, that the City would be undertaking the analysis and the plan soon. If so, he did not know where the City would find the money to perform these activities, setting up unreasonable expectations.

Mr. Bischoff said that there is a general feeling that the industrial study should be conducted soon. Further, there is an expectation that the area plan would be one that would be undertaken in a year or two upon the conclusion of the industrial study. He said that there was an interest, on the part of all committee members, in seeing the City proceed as quickly as possible with these items. He stated that there were committee members who felt that development in the southeast quadrant area could occur sooner and that it was important to complete these studies. Others felt that if the City is to be planning industrial development, that there is a 5-7 year time period necessary to get all the infrastructure in place and all approvals completed to have industrial land available. There is concern that in the next 5-7 years the City would be out of industrial land.

Council Member Sellers said that the Council will need to hear the recommendation as to where the funding source will come from to proceed with these studies.

Mr. Bischoff informed the Council that in April, staff will address possible funding sources.

Council Member Grzan noted that in order to develop to the urban limit line, the City would have to go through a number of steps, including moving the City Limit lines. This would require approaching

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LAFCO and other entities for annexation. He said that it would not be an automatic process that development would occur in the near future to build to this line.

Mr. Bischoff said that prior to development, the City's urban growth boundary line would need to be amended. Expansion of the urban service area would need to take place, followed by annexation; both subject to LAFCO's review. He noted that LAFCO has policies in place that discourage expansion of urban service areas or city limits when there is more than a five year supply of vacant land available within the current urban service area and/or city limits. He informed the Council that the City has a large inventory of vacant residential and commercial land. He said that the City may have up to 15-years of vacant industrial land. He said that it would more than likely be a long time before this area can be included within the city limits and developed.

Mayor Kennedy opened the floor to public comment.

Ralph Lyle inquired whether schools would be allowed in greenbelts. He did not know what staff meant by the statement that the American Anchorpoint properties would be allowed to develop. He inquired whether Morgan Hill would prioritize its funds for the southeast quadrant and the Open Space Authority would concentrate on the foothills. He noted that the eastern and western foothills are difficult to build upon where it might be more important to protect these areas. He noted that these studies would cost a lot of money to fund. He felt that these studies could be part of the general plan amendment cycle.

Mayor Kennedy said that the Committee looked at large group assembly facilities at the County's request. He stated that the Committee agreed with the policy adopted by the County to not allow schools in the greenbelt.

Mr. Bischoff indicated that if American Anchorpoint owns 112-117 acres and that they are willing to voluntarily place open space easements on 82 of these acres should the City allow homes to be built. He noted that these homes would be built outside the City limits. He said that they can go to the County and receive building permits on four lots at this time. The Committee is stating that if American Anchorpoint wants 20 acres added to the urban limit line, the conditions that the City would consider the request would require open space easements and that they build no more than four homes on Edmundson.

Brian Schmidt, Committee for Green Foothills, stated that the Committee for Green Foothills would like to see the ULL Committee be able to finalize their report. He said that this report is one perspective on what the City's long term future should be. He said that they are not asking for the ULL Committee to add additional meetings and that they should go ahead and present their perspective. He said that he would request that the Council consider perspectives that other individuals are working on as well. He said that the Committee for Green Foothills is trying to get back to the root of what started this process: protecting the greenbelt around the City of Morgan Hill. He expressed concern with the vastly expanded urban limit line going further east than the current urban growth boundary line and incorporating other areas. He said that the Committee for Green Foothills is looking at other ways to protect greenbelts. One possibility would be to require mitigation for the loss of open space associated with development that occurs within the city. He informed the Council that the Committee for Green

Foothills will be presenting an alternative perspective to the City as time goes on. He said that expansion outside the urban limit line would not be easy one for the City to solve.

Art Fuliaficco thanked the Mayor and Council for allowing him to be on the Committee as it has been a learning experience. He acknowledged the hard work of Mr. Bischoff and Ken Schreiber. He said that it was his belief that the Committee will come up with a good recommendation.

Michelle Beasley, South Bay Field Representative for Greenbelt Alliance and resident of Morgan Hill, stated that Greenbelt Alliance has always maintained that urban growth boundaries should be respected as much as possible. She said that the vast majority of individuals in Morgan Hill want Morgan Hill to retain its rural charm and to continue with a slow approach to growth. She stated that it was her understanding that the original purpose of this Committee was to create a greenbelt and not to bypass the urban growth boundary line, or bring in a whole new area for planning. She noted that the citizens of Morgan Hill again approved the City's residential growth control measure last year. Therefore, the inclusion of the southeast quadrant within the urban limit line would go against the City and its residents' law.

John Hewitt, speaking as a volunteer with the Santa Clara Valley Audubon Society and a resident of South County, stated that the Audubon society believes that it is important to have greenbelt around the City of Morgan Hill. They do not see a need for the establishment of an urban limit line at this time, particularly in the southeast quadrant. It is important to have a greenbelt separating Morgan Hill from San Martin as this is a goal in the general plan and would help parts of South County retain its rural character. By establishing an urban limit line in the southeast quadrant, Morgan Hill would be locking in development in this area. Without a greenbelt separating Morgan Hill from San Martin, he felt that the two towns would run together and eventually become one large urban area, detracting from the quality of life, and not meeting the goals of the general plan. According to the data he received from the City's planning department, he found that as of May 2004 there was an excess of 2,000 acres of vacant residential, commercial, and industrial land within the City Limits. Given the growth restrictions adopted by the people of Morgan Hill, he felt that there was ample land within the current city limits to accommodate growth for years to come. Therefore, he did not believe that there was a need to establish an urban limit line at this time. The Audubon Society believes that mitigation for the loss of open space and agricultural land based on CEQA law would be an appropriate way to fund the acquisition of land for the greenbelt.

Rocke Garcia stated that he was approached by a committee of a church in the vicinity of DeWitt and Spring Avenues. He noted that this particular area was not addressed at prior meetings and that he would like to make sure that this remains on the agenda. He stated his support of the minority report regarding the southeast quadrant. He recommended that this minority report be included in the final document.

Paul Swing thanked Mr. Garcia for bringing up the Westhill Church property at DeWitt and Spring Avenues. He requested the City not devalue properties and restrict development potentials for properties placed in the greenbelt, especially when development has occurred in the area. He said that he owns properties that will be impacted by the proposed greenbelt. He further requested that the Council work

toward an instrument that does not harm property owners who have purchased land based on the current development potentials.

No further comments were offered.

Council Member Grzan thanked staff for their outstanding efforts as it was not an easy Committee to work with. He indicated that the Committee did not achieve consensus and that the report before the Council is a majority report. He said that there are a number of members on the Committee who will hold to an alternate plan to the current urban boundary east of Highway 101 with the exception of 200 acres surrounding Tennant Avenue. He indicated that there are a number of members on the Committee who would like the City to take the plan in the form of an initiative process to make permanent the urban growth boundary. He said that there is a mechanism for funding such as the use of developer fees or in lieu fees to purchase development rights from greenbelt areas. He noted that the environmental groups have raised issues as to where the line is proposed. He said that he and the community have issues with the study and felt that there is an alternative that needs to be considered.

Council Member Sellers said that he was anxious that the process was not taken further. However, after hearing all the work that has gone into the study thus far, it is understandable. He did not believe that the Council would achieve a final resolution with this document and that further steps would need to be undertaken. He did not believe that preserving greenbelts and open space between Morgan Hill and San Martin, and wanting to develop industrial lands in appropriate ways in the southeast quadrant, as being at odds. He felt that it would take significant creativity and ability to look at fresh ways in this area. While he welcomes this opportunity, he stated that he was anxious about how it is to be undertaken. He did not believe that the City should wait until the next general plan update as suggested. He felt that there may be several reasons to undertake the studies sooner rather than later. However, in order to proceed with the studies, the City will need to identify resources. He acknowledged that a significant amount of work has gone into this study and the City is close to completion. However, he would like to see a study completed for the southeast quadrant and figure out a way to pay for it.

Mayor Kennedy inquired whether the Council would like the Committee to proceed with the schedule as outlined by staff, conducting a workshop followed by a Committee meeting before returning to the Council.

Council Member Tate noted that there is a minority report in the process of being refined, and that others are trying to find a solution that will encompass a compromise than the majority and minority reports are suggesting. He inquired whether there was an intermediate step that can be taken.

Mayor Kennedy noted that three meetings are being proposed: 1) a public hearing; 2) a subsequent ULL Committee meeting to finalize the report; and 3) the report to come before the Council for consideration. He noted that the property owners' report is included as an appendix in the document before the Council. He stated that there was not a majority in support of incorporating all suggestions made by the property owners. How the property owners' suggestions will be addressed will ultimately be the Council's responsibility. He felt that the Committee has taken these requests as far as it can, given the authority and limitations placed upon them.

Council Member Sellers stated that he was satisfied with the timeline. However, he felt that it was important that there be additional public notification on the final meetings of the ULL Committee and at the Planning Commission level in order to receive greater public input. He inquired whether the environmental groups would be preparing their own minority report.

Mayor Kennedy said that this has been a difficult process because interests are competing, (e.g., interest of protecting open space, property owners, and property owners wanting to protect their values). He felt that the Committee has done an excellent job in addressing this as best that they could.

Council Member Carr acknowledged that this is a difficult task. It was his understanding that the Committee will present a final report to the Council in April and that this will be the beginning of the process for the Council. He did not believe that this would be a unanimous report and that a minority report will be submitted. There will be other perspectives presented by other groups and individuals. He wanted the public to understand that when the Council receives the report in April, it will be the beginning of the Council's process and work. There will be a lot of work that needs to be done in order to complete the process. It was his hope that as many individuals participate in what is left of the public process in order to get their input into the process and to the Council. He said that a lot of work will take place before the Council states that it will proceed with a specific plan, or before stating that it would be willing to look at other lines.

Council Member Tate concurred with Council Member Carr's comments. He recommended that additional meetings be added, if needed.

**Action:**        *By consensus, the City Council **Authorized** the Advisory Committee to Conduct a Public Meeting to Solicit Community Input and Finalize Their Recommendations.*

## ***City Council and Redevelopment Agency Action***

### **CLOSED SESSIONS:**

City Attorney/Agency Counsel Leichter announced the below listed closed session items.

#### **1.**

#### **CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION**

Authority:	Government Code Sections 54956.9(b) & (c)
Number of Potential Cases:	4

### **OPPORTUNITY FOR PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the Closed Session items to public comment. No comments were offered.

### **ADJOURN TO CLOSED SESSION**



Mayor/Chairman Kennedy adjourned the meeting to Closed Session at 6:33 p.m.

### **RECONVENE**

Mayor/Chairman Kennedy reconvened the meeting at 7:03 p.m.

### **CLOSED SESSION ANNOUNCEMENT**

Mayor/Chairman Kennedy announced that no reportable action was taken in closed session.

### **SILENT INVOCATION**

### **PLEDGE OF ALLEGIANCE**

At the invitation of Mayor/Chairman Kennedy, Peter Anderson led the Pledge of Allegiance.

### **PROCLAMATION**

Mayor Kennedy presented Elaine Lui and Tiffany Schyuan with a proclamation, proclaiming the first week of February 2005 as *Future Business Leaders of America Week*.

### **PRESENTATION**

Ariadne Delon Scott, representing Specialized Bicycles, presented the Council a packet of information regarding the upcoming cycling event. She stated that it is proposed to bring worldwide prestige to Morgan Hill with this event, bringing economic sustainability to the community and the joy of cycling/use of bicycles for transportation, fitness and fun. She informed the Council that Mike Sinyard, president of Specialized Bicycles, has challenged the Council to a big wheel race at the start of the race.

Rick Sutton with GaleForce Sports Marketing, and Tom Simpson, Principal with Pilarcitos Cycle Sports, outlined the plans for the cycling event and course description to be held in Morgan Hill on April 10, 2005, with events taking place from 8:00 a.m. to 4:30 p.m. It was indicated that the event would not be a burden to the City. The cycling event will provide its own marshals, equipment, items used to barricade/close the streets, timers, etc., including the cost for police officers. Should this event be approved by the City, Web Corp Builders have agreed to repair the surface of the Third Street bridge and get it ready for the race. The improvements would remain for the City to use and enjoy.

### **CITY COUNCIL REPORT**

Council Member Sellers said that although he was not able to attend the State of the City address on Monday evening, he said that the Council held a retreat in January 2005. At the retreat, the Council agreed to reorganize the way it organizes itself in terms of its committees and subcommittees. He stated that he has been working with the Downtown Association for the past few years and that he was pleased

that they have weighed in and provided a positive response to the upcoming cycling event. He said that the Downtown Association is starting to look at, and evaluate these kinds of projects quickly and in this case, endorsing the event. He said that a similar event will be taking place in May with the first time that the Mushroom Mardi Gras will be held in the downtown area; indicating that the downtown community is welcoming this event as well. He indicated that the third event to take place later this year is the establishment of a property based improvement district as it will be an opportunity for the downtown community to fund itself and provide ongoing staffing support for these kinds of activities. He stated that he has been working with this organization. He also has been working with Council Member Carr on economic development activities; and is looking forward to working closely with the Chamber of Commerce on their economic development to maximize the types of businesses desired in the community. He indicated that the Council will be looking at its relationship with other agencies in the County and the region.

Mayor Pro Tempore Tate indicated that the Library Joint Powers Authority met last Thursday and finalized the plans for a two part mail in ballot due May 3, 2005 as follows: 1) Measure A asks voters to extend an existing \$33.66 parcel tax to maintain the current library hours and books; and 2) Measure B is for an additional \$1 per month tax to be added to the existing parcel tax so that the Monday closure can be restored. He stated that the community will be hearing much more from him on the two ballot measures for the library in the future.

### **CITY MANAGER REPORT**

City Manager Tewes said that at the State of the City Address, the Mayor expressed the Council's commitment to deliver quality water to the community. Further, that the City would meet or exceed all state and federal water standards. He said that one of the things the Council has directed staff to do in order to exceed standards is to monitor and test wells more often than would otherwise be required, testing monthly. Using the testing protocol established by the California Department of Health Services, he reported that all City wells registered none detect for the chemical perchlorate.

### **CITY ATTORNEY REPORT**

City Attorney Leichter indicated that she did not have a report to present this evening.

### **PUBLIC COMMENT**

Mayor/Chairman Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Khri Bolla, San Martin resident, informed the Council that he received a call from a friend from Silicon Valley who thought about a Tsunami fundraiser. During the past few weeks, a group of individuals have extended the fundraiser events from the Indian community to other ethnic groups in the bay area. He indicated that a group met with the City of San Jose and stated that they are very supportive of their efforts with cash, police support, free parking, etc. The Cities of Fremont and Milpitas are also supportive of this effort. As a South County resident, he thought that it would be a good idea to get the

Cities of Morgan Hill and Gilroy to support the group in its efforts. He said that it would be helpful if the City endorsed the fundraising effort.

No further comments were offered.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Pro Tempore Tate requested that item 10 be removed from the Consent Calendar.

**Action:**        *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Sellers, the City Council unanimously (5-0) **Approved** Consent Calendar Items 2-9 and 11-13 as follows:*

2.        **INVENTORY PURCHASE FOR AQUATICS CENTER**

**Action:** **Approved** *Funding in the Amount of \$40,000 for Aquatic Resale Purchases From Unallocated General Fund.*

3.        **APPROVAL OF ADDITIONAL APPROPRIATION FOR EQUIPPING BUTTERFIELD BOULEVARD WATER WELL**

**Action:** **Approved** *Appropriation of \$100,000 From the Current Year Unappropriated Water Impact Fund (651) Balance to Augment Funding for this Project.*

4.        **APPROVAL OF REAL PROPERTY ACQUISITION AGREEMENT FOR NEW WELL EASEMENT**

**Action:** 1) **Approved** *Acquisition of a Well Easement; and 2) **Authorized** the City Manager to Execute a Real Property Acquisition Agreement with the Owner of APN 726-27-127, Subject to Review and Approval as to Form by the City Attorney.*

5.        **SECOND QUARTER REPORT ON 2004-2005 WORKPLAN**

**Action:** **Accepted** *Report.*

6.        **AMENDED RESOLUTION AUTHORIZING THE SANTA CLARA COUNTY DEPARTMENT OF AGRICULTURE AND RESOURCE MANAGEMENT TO ABATE WEEDS – Resolution No. 5889**

**Action:** **Adopted Amended** *Resolution No. 5889, Authorizing the Santa Clara County Department of Agricultural and Resource Management to Abate Weeds.*

7.        **ORDINANCE NO. 1708, NEW SERIES**

**Action:** **Waived** *the Reading, and **Adopted** Ordinance No. 1708, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: ***AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING A DEVELOPMENT****

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***AGREEMENT FOR APPLICATION MP-03-04: COCHRANE-BORELLO. (APN 728-34-007) (DA-04-06: COCHRANE-BORELLO).***

**8. ORDINANCE NO. 1709, NEW SERIES**

***Action: Waived the Reading, and Adopted Ordinance No. 1709, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AN AMENDMENT TO THE MORGAN HILL MUNICIPAL CODE INCORPORATING CHAPTER 18.17 ESTABLISHING AN R-4 HIGH DENSITY RESIDENTIAL DISTRICT.***

**9. ORDINANCE NO. 1711, NEW SERIES**

***Action: Waived the Reading, and Adopted Ordinance No. 1711, New Series, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION ON TWO SEPARATE AREAS TOTALING 7.07 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN.***

**11. ORDINANCE NO. 1713, NEW SERIES, AS AMENDED**

***Action: Waived the Reading, and Adopted Ordinance No. 1713, New Series, As Amended, and Declared That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION FROM ML, LIGHT INDUSTRIAL TO CO, ADMINISTRATIVE OFFICE FOR ONE PARCEL TOTALING 1.45 ACRES LOCATED AT THE NORTHWEST CORNER OF TENNANT AVENUE AND CAPUTO DRIVE. (APNS 817-29-027)***

**12. SPECIAL CITY COUNCIL COYOTE VALLEY SOUTH COUNTY STAKEHOLDERS WORKSHOP MINUTES FOR JANUARY 12, 2005**

***Action: Approved the Minutes as Written.***

**13. MID-YEAR 2004-2005 BUDGET ADJUSTMENTS**

***Action: Approved Proposed Mid-Year Budget Adjustments for FY 2004-2005.***

**10. ORDINANCE NO. 1712, NEW SERIES**

Mayor Pro Tempore Tate said that this ordinance was part of the improvement to the Downtown Plan Implementation Measures as set forth by staff. He noted that the Planning Commission recommended that the Council defer changing the parking regulations until the Council thoroughly reviews and understands the parking impacts to the downtown and whether it is a pocket area issue versus the overall area that had sufficient capacity. In the Council's haste to get through the action items, the Council moved to introduce the ordinance. He recommended that the ordinance be tabled until such time that the Council receives the parking study results.

**Action:** *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) Agreed to Table Ordinance No. 1712: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING TEXT AMENDMENTS TO THE MORGAN HILL MUNICIPAL CODE CHAPTER 18.50 OFF-STREET PARKING AND PAVING STANDARDS.***

## ***City Council and Redevelopment Agency Action***

### **CONSENT CALENDAR:**

**Action:** *On a motion by Mayor Pro Tempore/Vice-chairman Tate and seconded by Council/Agency Member Sellers, the City Council/Agency Board unanimously (5-0) Approved Consent Calendar Items 14-15 as follows:*

#### **14. IMPROVEMENT AGREEMENTS AND SUBDIVISION AGREEMENTS INSURANCE REQUIREMENTS**

##### **Action:**

##### **Acting as the Redevelopment Agency Board:**

1. **Granted** to South County Community Builders, for the Viale Project, an Amount, not to Exceed \$21,000, Necessary to Reimburse South County Community Builders for the Incremental Cost of Purchasing a Liability Insurance Endorsement that would Extend Coverage for “Completed Operations” or “Your Work” to the City of Morgan Hill as an Additional Insured, so that South County Community Builders may meet the Requirements of its Subdivision Improvement Agreement with the City; and

##### **Acting as the City Council:**

2. **Amended** the Improvement Agreements and Subdivision Improvement Agreements Insurance Policy as Described in the Staff Report.

#### **15. SPECIAL AND REGULAR CITY COUNCIL AND SPECIAL REDEVELOPMENT AGENCY MEETING MINUTES FOR JANUARY 19, 2005**

**Action:** **Approved** the Minutes as written.

## ***City Council Action***

### **CONSENT CALENDAR:**

Mayor Pro Tempore Tate requested that item 16 be removed from the Consent Calendar as he would be recusing himself from this item.

Council Member Sellers requested that item 17 be removed from the Consent Calendar as he would be recusing himself from that item.

**16. AWARD OF MAINTENANCE CONTRACT FOR SANITARY SEWER ROOT ABATEMENT PROJECT**

Mayor Pro Tempore Tate stepped down from the Dias.

**Action:** *On a motion by Council Member Sellers and seconded by Council Member Carr, the City Council, on a 4-0 vote with Mayor Pro Tempore Tate absent, 1) **Awarded** Maintenance Contract to Pacific Sewer Maintenance Corporation for the Sewer Root Abatement Project in the Amount of \$144,750; 2) **Approved** 5% Construction Contingency Funding of \$7,250; and 3) **Appropriated** From the Current Year Unappropriated Sewer Capital Fund (643) Balance a Total of \$152,000.*

Mayor Pro Tempore Tate resumed his seat on the Dias.

**17. ORDINANCE NO. 1710, NEW SERIES**

Council Member Sellers stepped down from the Dias.

**Action:** *On a motion by Council Member Carr and seconded by Mayor Pro Tempore Tate, the City Council, on a 4-0 vote with Council Member Sellers absent, **Waived** the Reading, and **Adopted** Ordinance No. 1710, New Series, and **Declared** That Said Title, Which Appears on the Public Agenda, Shall be Determined to Have Been Read by Title and Further Reading Waived; Title as Follows: **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL AMENDING THE ZONING DESIGNATION ON 11.13 ACRES WITHIN THE DOWNTOWN AREA AS DEFINED IN THE DOWNTOWN PLAN AS THE AREA LOCATED BETWEEN THE SOUTH SIDE OF EAST CENTRAL AVENUE AND NORTH OF EAST MAIN AVENUE, BETWEEN MONTEREY ROAD AND THE RAILROAD TRACKS. (APNS 726-23-001 THRU 015).***

Council Member Sellers resumed his seat on Dias.

***Redevelopment Agency Action***

**OTHER BUSINESS:**

**18. QUARTERLY REPORT FROM THE CHAMBER OF COMMERCE (CHAMBER) ECONOMIC DEVELOPMENT PARTNERSHIP**

Director of Business Assistance and Housing Services Toy presented the staff report, informing the Agency Board that in December 2004, the Council approved an agreement with the Chamber to provide supplemental economic development activities. As a condition of this agreement, the Chamber is required to provide quarterly status updates of their activities. He informed the Council that the

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Chamber recently completed their status report for their first and second quarters as well as developing some performance measures. Staff felt that it would be beneficial to the Agency to ask the Chamber to make a presentation on this information and to allow the Agency Board to hear and accept the report.

Alex Kennett, Chair of the Chamber of Commerce's Economic Development Committee (EDC), said that changes have been made to the EDC, adding new members, (e.g., members from the education and environmental communities), and rounding out the business community to make sure that everyone is at the table. He indicated that the EDC meetings have 20+ individuals in attendance and that there is a good exchange of information. He thanked Mr. Toy and staff member Joyce Maskell for helping to coordinate the EDC's efforts. To be presented to the Agency Board are the results of the EDC and the Chamber's efforts. He informed the Council that two quarterly reports would be presented this evening.

Bob Martin, marketing staff member for the Chamber, stated that before the Agency Board are two quarterly reports and that he would be happy to answer any questions it may have on the reports. He said that the results of an economic focus are starting to show. He said that in the third fiscal quarter of this year there was an increase in sales tax revenue of 38% over the previous year. He stated that the Chamber has put together a matrix per the conversation held in the Council Chambers in December. He reported that the Chamber is at approximately 11% of budget expenses through the first half of the fiscal year. While it is anticipated that they will spend the budget, to have the results that has been seen with the minimal expenses, he felt is a satisfactory accomplishment.

Agency Member Sellers said that the report is encouraging. He stated that he appreciated the opportunity of seeing the matrix as it provides the Agency Board a quantifiable way of looking at the undertakings of the Chamber. He inquired as to the plans for the private partnership funds and to its progress to this point.

Mr. Martin informed the Agency Board that John Varela works with the Chamber on the sales side. He said that for the first 6-8 months of the year, Mr. Varela made a concerted effort and made several dozen contacts with likely candidates for sponsorship packages. The Chamber found that it was a very competitive market for individuals willing to invest in this effort. He felt that the Chamber fell short because they were ambitious in terms of the size of the partnerships they were seeking at the expense of smaller businesses that would have been willing to invest in more tactical endeavors as opposed to strategic sponsorships. He stated that this has been a learning process as well as a function of the economy in terms of the initial fundraising efforts. However, he stated that the Chamber is still optimistic.

Agency Member Carr appreciated that a matrix was put together in order to be able to identify the baselines. He commended the Chamber on the tourism aspect. He indicated that he was able to attend the last Tourism Advisory Committee meeting and hear the plans the Chamber has regarding tourism. He said that this is an area that he has had a lot of questions and concerns about. He noted that there are now specific ideas and specific areas to focus on, including goals to achieve.

Mr. Martin said that the Chamber laid out a plan for tourism in Morgan Hill and that it is an opportunity to position the City as a get away destination, a place where individuals would come for a day or a

single overnight stay. He stated that the Chamber has taken a 120-mile radius from Morgan Hill and put together a plan over the course of a year that includes advertising, public relations, familiarization trips and specific packages where individuals would come to Morgan Hill and stay in local hotels, golf at local golf courses, etc. He stated that the Chamber is taking a regional perspective on the particular package, but is developing a strategy that focuses on individuals who are willing to drive to Morgan Hill. The Chamber understands that this is a competitive market. He indicated that the matrix is a collaborative effort between the EDC and the City and that some of the goals come from this basis.

**Action:**        *On a motion by Vice-chairman Tate and seconded by Agency Member Sellers, the Agency Board unanimously (5-0) **Accepted** the report.*

## ***City Council Action***

Mayor Kennedy reopened Consent Item 6 to public comment.

Paul Ealey indicated that last month, the Council considered the issue of weed abatement. At the meeting, he raised concerns and requested that the Council investigate his concerns. He informed the Council that he was amazed as to how quickly the City moved to address his concerns. He stated that it has been a pleasure dealing with City and County staff. He said that Debbie Craven and David Bruni with the Santa Clara County Fire Marshal's office came to his home the following day and took a look at his property as well as adjacent properties. They concluded that the problem was not his. He thanked the City for all its time and the manner in which staff presented itself.

## **OTHER BUSINESS:**

### **19. SWIM TEAM RESERVATION POLICIES AT THE AQUATICS CENTER**

Recreation and Community Services Manager Spier informed the Council that staff is hoping to bring resolution to an issue that has been occurring with swim teams since the opening of the aquatics center. She said that there are enough community members who would like to use the pool and that it has become an issue. She said that staff is trying to find a way to have everyone utilize the 50-meter competition pool in order to keep the aquatics center open in the off season. She said that staff has worked with the two swim teams, trying to figure out an equitable way to assign lanes. She stated that as the City's community programs grow, staff has had to reserve four lanes in order to monitor and work with the City's masters program, leaving 13 lanes available for swim team use. She informed the Council that staff requested the two teams submit their lane requests for the March 1 through August 31 time period. She indicated that there are more requests for lanes than the total amount of lanes available. She stated that the Morgan Hill Swim Club would like to reserve 13 lanes and the El Toro Swim Club 5 lanes. She said that the City would not be able to sustain all lane requests with the 13 lanes available. Staff has tried to work with both swim teams to reach consensus for the use of the swim lanes. She indicated that the roundtable discussions have not proven to be fruitful.

Ms. Spier said that staff looked at what other cities are doing; one being a "first come, first served" reservation policy. Other cities give use to the prime team, a team considered a local home team. Staff is



advocating a system whereby the City can keep both teams in the pool at the same time. She addressed how the two swim teams would be able to have a chance to purchase the use of swim lanes. She said that the idea would be for each time to fill out a request form, providing the City with a \$100 non-refundable fee for the purchase of a ball, up to 13 balls. At a designated time, representatives from the swim teams would be present and staff would draw 13 balls. Whatever the ratio of balls pulled, would determine the lane assignments. She acknowledged that the smaller team may get all of their chances awarded. If this occurs, the larger swim team may find that the remaining lane assignments would not be sustainable for their practices and may use another pool facility. If this should occur, staff would need to analyze its cost recovery and the City's ability to sustain being open during the months of March - June. She said that staff has put a lot of time and effort in trying to figure out lane assignments and that staff needs to focus on swim lessons and summer aquatics programs. She said that the final approval for lane assignments lays with staff, as staff needs to know who is using the lanes and for what purposes. She stated that teams can negotiate the use of lanes between themselves, but that the reservation forms have to show who's assigned to which lanes.

Council Member Sellers understood the explanation for not refunding the \$100. However, he felt that there may be a process by which the \$100 can be incorporated into the fees the swim teams pay in the next couple of months.

Council Member Grzan inquired as to the number of participants per swim team. He questioned the fairness in the number of participants on each teams and the number of lane assignments that may result.

Ms. Spier said that staff made a decision not to discuss coaching styles as this is not a City role. Therefore, the City diverted away from lane assignments based on the number of participants. She said that the Council has a mandate that 60% of the participants in the water need to be Morgan Hill residents; indicating that staff will be monitoring this percentage. In order to be considered a resident team, there needs to be 60% Morgan Hill residents on the roster and participating in the water. She clarified that there is not a team advantage by exceeding the 60% residency requirements.

Aaron Himelson, Aquatics Supervisor, said that staff secured energy audit reports from PG&E that were used to calculate the base user fees. Staff looked at the ratios for keeping the 50 meter pool open and other associated costs with the aquatics center. He said that \$1,000 is the fee calculated to operate and maintain the lanes.

Council Member Grzan requested that staff furnish him a cost per month maintenance for the aquatics center.

Ms. Spier indicated that the City has not established a maximum number of swimmers per lane and that this number has been left to the coaches. She said a coach is someone who is USA Swimming certified and is recognized as a USA swimming coach. She clarified that if a team purchases any number of lanes, they are responsible for all lanes, unless they negotiate with the other team and the reservation form is changed.

Mr. Himelson indicated that before a coach can utilize the aquatics center, they must have coach's safety training certificates from the American Red Cross, CPR, a basic first aid class and a current registration through USA Swimming. Therefore, the coaches are recognized as USA swimming coaches.

Mayor Kennedy recommended that the wording relating to team lockers be changed to team restrooms so that it is known that a swim team has priority for its use. He concurred that it would be appropriate to deduct the \$100 per lane cost from the fees. He inquired whether an interim solution could be implemented now until June, such that the City would assign the lanes as currently done, (10 & 3 lanes, 4 lanes assigned to the city). In the meantime, the Parks & Recreation Commission, (PRC), can study the issue of lane assignments in depth, looking at the entire picture such as the availability of the Sobrato and Live Oak High School pools in addition to the aquatics center. The PRC can come up with recommendations for the Council to consider. This would address the imbalance apportionment of the lanes.

Ms. Spier clarified that there is no requirement that team members need to take City swim lessons. All that is required is that swimmers pass a swim test.

Mayor Kennedy opened the floor to public comment.

John Rick said that this is an important issue on how this facility is viewed by the USA Swimming for training purposes, as well as what it means to the Morgan Hill Swim Club. He distributed handouts to assist the Council in following his presentation. He stated that he was in attendance on behalf of the Board of Directors for the Morgan Hill Swim Club. He said that the Swim Club will support staff's proposed policies and procedures this evening, however, with some trepidation, as proposed. It is understood that the demand is in excess of supply. He said that the 50 meter competition pool is a prime training real estate. The Board went on record in support of the proposed policies and procedures. He indicated that the Council has received a listing of the Morgan Hill Swim Club's contributions, including the range of estimated financial support made to the aquatics center. He felt that the Morgan Hill Swim Club has given the City everything possible to make the aquatics center work. He said that while the Morgan Hill Swim Club has had some significant disagreements with staff regarding the facility, the Board has always worked out issues to staff's approval without escalating any dissatisfaction to City Hall or City Council. He presented a table that lists all 22 teams in the zone, and the training facilities that each team has, with the exception of the Morgan Hill Swim Club and the lanes assigned for training. He said that the Morgan Hill Swim Club and Silicon Valley San Jose Aquatics are listed. He noted that according to USA Swimming, as of today, there is no registered licensed team in California by the name of El Toro Aquatics.

Mr. Rick said that the greatest shortfall in the proposed "game of chance" is the probable outcome whereby the Morgan Hill Swim Club will not be afforded enough lanes going forward to be able to continue to train at the aquatics center. They will need to accept and deal with this fact if this is the end result. He indicated that the Morgan Hill Swim Club has had to drive as far away as Lynbrook High School near Cupertino to train. Other high schools in the area have indicated that they need all their lanes and therefore they cannot go elsewhere. He stated that the Morgan Hill Swim Club schedules all of its activities around staff and swimmers. He noted that the two swim teams compete at meets, as well as

compete for the use of the same water at the same time. He said that when the San Jose Swim Team came to Morgan Hill several years ago with approximately \$800,000, it promoted heavily the fact that their monthly dues were approximately 40%-50% less than Morgan Hill Swim Club dues. He informed the Council that it is Morgan Hill Swim Club's goal to be the largest team in the Morgan Hill area, and that they want a place to call home like every other team in the zone. He presented a history of the two swim teams and the use of the lanes the past summer (13-4 lane split). He said that there a lot of ongoing cooperative efforts between City staff and the Morgan Hill Swim Club. He felt that the right thing for the City to do this summer is to repeat the 13-4 lane split at the center. He said that allowing the San Jose Aquatics/El Toro Aquatics to train in Morgan Hill exclusively at one of the School District pools without Morgan Hill Swim Club's involvement, would be an alternative should they want to maintain a Morgan Hill program. He felt that this scenario will optimize capacity utilization and defuse friction. He said that the Morgan Hill Swim Club reaches out to any member of the board of directors of the San Jose Aquatics–El Toro Aquatics members in the audience in order to end this craziness and agree to the request for the good of the community, the facility, swimmers and the good will of USA Swimming. He noted that for the past four years, the Morgan Hill Swim Club has represented the City across the Country in USA Swimming. During this period, he stated that Morgan Hill residents had a choice of deciding which team to train and compete for. Over the years, swimmers from Gilroy, San Martin, Hollister and San Jose have chosen to train and compete for Morgan Hill. Of the 223 registered swimmers, 189 are Morgan Hill residents and 34 (16%) are not. He felt that there have always been choices about swim clubs. He said that Morgan Hill Swim Club supports the municipal model/home team concept addressed in the staff report; even if it means that the Morgan Hill Swim Club does not fit in and has to go elsewhere. He informed the Council that the names of the two clubs in USA Swimming are Morgan Hill Swim Club (aka Makos) and Silicon Valley Aquatics Association (aka El Toro Swim Club).

Geno Acevedo noted that it is being proposed to charge \$100 for a chance to win something of perceived value, (e.g., lane assignments). He questioned whether the City could institute a form of gambling. He felt that charging for lanes should be conducted in an equitable format. Further, that it would be more equitable to charge a dollar per lane per hour of use, charging a separate amount for long course lane for additional swimmers. He endorsed Mayor Kennedy and Council Member Grzan's suggestion of continuing this item until the PRC has had a chance to review this item in more detail. Further, that the City retain the policy, as suggested, until the PRC comes up with a policy to suggest to the Council.

Cindy Acevedo, Vice-President of the Morgan Hill Swim Club, informed the Council that there has been a lot of disputes about lane assignments and time of use. She noted that peak hours are from 3-7 p.m. She informed the Council that their roster contains 168 year round members as of November 30, 2004. She said that the last time the Morgan Hill Swim Club met with staff to discuss the lane assignments, the winter months were going to be controlled/subsidized by Morgan Hill Aquatics Center, Inc. This group was to make the decisions as far as lane assignments and that it was their expectation that this was going to take place. However, in meeting with staff on September 2, 2004, Bill Thompson and Greg Cutler with Silicon Valley Aquatics were in attendance and opted out of being a recipient, or from participating with the foundation. She said that Morgan Hill Swim Club has tried to come to resolution with the El Toro Aquatics representatives; spending several hours speaking with Mr. and Mrs.

Enriquez to come up with an alternate solution to the lottery suggestion. She stated that she is reluctantly suggesting that the City move forward with the lottery, even though she does not agree with this solution as it is not a fair one. She stated that it was her understanding that the Morgan Hill Aquatics Center, Inc. has paid funds to the City's aquatics center to help offset costs.

Bob Martin disclosed that he has two sons that swim for the Morgan Hill Swim Club, but that he was not in attendance to represent them this evening. He was in attendance as an independent taxpayer and business person. He stated his endorsement of Mayor Kennedy's suggestion that this item be referred back to staff. He felt that it was tenuous, if not foolish, to base a business on chance when you talk about an aquatics center that the City is looking for full cost recovery; leaving it to a game of chance. He did not believe that the proposed lottery was subjective as there are only two entities that are being allowed to participate. He finds this offensive and exclusionary as a taxpayer. He felt that it was a risky proposal as the larger team with the deeper pockets can take more balls and ostensibly take over the 13 lanes, cutting out the other team. While he congratulates staff for creating a success that caused this dilemma and thinking out of the box, he would endorse sending the lane issue back to staff to reevaluate an appropriate resolution. He did not know whether a precedent exists for a lottery in City policy other than for Measure C. He said that the solution the City offers with the aquatics center will lay the framework for other city facility demands.

Lori Mains stated that she has two children who swim for the Silicon Valley Aquatics Association, indicating that the San Jose Aquatics Association no longer exists. She indicated that her sons originally started swimming for the Morgan Hill Swim Club eight years ago, however, her sons were not successful under this program and eventually swam under El Toro Aquatics. She requested that her children be given a choice of swim club as there are different programs and coaching styles. She stated that staff has worked long and hard to come up with an equitable situation and that parents have tried hard to be fair and work toward an equitable solution for the use of swim lanes. She said that Morgan Hill parents would like to be able have their children swim in Morgan Hill and co-exist with the other swim club(s).

Donna Cretcher stated that El Toro Aquatics has no choice but to support the lottery. She thought that El Toro Aquatics went to staff with lane requests on December 31, 2004 that were reasonable. El Toro Aquatics requested 3-4 lanes for the spring season and requested 5-6 lanes during the summer season as it was thought that this would be a good sharing of the pool. It was then realized that the Morgan Hill Swim Club wants to use of the entire pool. She stated that the Morgan Hill Swim Club offered El Toro Aquatics to join their club and combine teams. She said that the Morgan Hill Swim Club did not listen to Mayor Kennedy's suggestion at the last Council meeting when they were asked to look at the way they are handling the Foundation's money. She indicated that El Toro Aquatics is willing to share the pool and be cooperative. She said that El Toro Aquatics would like to have the eliteness of swimming with one or two kids in a lane; however, it is not reasonable, practical or affordable. She stated that this has nothing to do with coaching styles, but has to do with trying to work things out. She expressed concern with the higher requirements as identified under item 16. She noted that the only requirement to joining a swim team is to be able to swim a 25-free and 25-backstroke and that these requirements have been increased. It appears that an individual cannot join a swim club unless the City approves it. She said that she misunderstood Mr. Enriquez and that it was her belief that the Acevedos denied a formal meeting.

She apologized for the miscommunication, indicating that there have been phone conversations, but no meetings held. She felt that the Morgan Hill Swim Club needs the aquatics center all to themselves, recommending that El Toro Aquatics utilize Live Oak High School or Gunderson High School pools. It was her hope that there would be cooperation and communication, indicating that this has not been possible and that the problem has been ongoing for two years.

Marian Sacco indicated that the El Toro Swim Team has 69 children on the roster and that 70% are Morgan Hill residents. She stated that she has helped fund raise for both swim clubs. She said that it was frustrating that the teams cannot get together. She said that the El Toro Aquatics only wants five lanes. She felt that time was needed to work out the differences between the two teams. Separating the teams by miles or distance would only keep the friction in place. By swimming together, there may be some opportunities to do things together and build comradery between the two teams. She clarified that El Toro Swim Team is a part of Silicon Valley Aquatics, a satellite operation consisting of Morgan Hill residents.

No further comments were offered.

Council Member Carr indicated that the Council has been hearing about this problem for months. It has always been his hope that parents keep kids in mind and that he was not sure that this is being done. He noted that the aquatics center will open in three months for the summer and that its lifeblood is the summer. The City needs a successful summer in order to keep the aquatics center open and keep the swim teams active during the winter months. He stated that he would not support sending this item to anyone else. He noted that a lot of staff and Council time has been spent on this issue and no other solution has been brought forward. He said that the City needs to move forward and into the summer, allowing City staff to put together a successful summer program in order to keep the aquatics center open next year. Otherwise, citizens will be complaining that the aquatics center is not open during the winter months and the Council will have different sets of complaints to work on. He agreed that the lottery is not objective and not the way to run a business. However, when you run a business that relies on the summer's success, the City cannot waste staff's programming time to settle arguments on who will be reserving certain lanes. He felt that the \$100 non refundable fee is a reasonable amount. When a swim club buys a chance, the club buys the responsibility of the lane, and should not be allowed to return the lanes, being responsible for the full cost of the lane(s). He stated his support of staff's recommended actions this evening.

Council Member Grzan felt that the Council has a responsibility for the equitable distribution of City services; services that are not subject to a lottery. He noted that there is one team who has 189 swimmers and another team with 69 swimmers. He recommended that lanes be distributed fairly, based upon the number of children on a particular swim team. It was his belief that this item should have gone to the PRC and let them decide how to resolve this issue. He noted that the City has a \$1.2 million deficit to deal with and that it has a number of major projects to be built, policies to address, etc. He noted that a great amount of Council time has been spent on this issue last week and this evening. He noted that the Council has established advisory groups that are set up for the purpose of handling issues similar to this. He felt that the Council needs to make use of its commissions. Otherwise, the Council will spend several

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hours on these types of issues and let serious issues go by without time to address them. He stated that he would not support the lottery and that he looks toward another solution.

Mayor Pro Tempore Tate felt that it was obvious that the problem should have resolution, but has not resulted in one to date. He said that staff has been involved in trying to work out compromises and that Mayor Kennedy and Council Member Sellers have also been involved in trying to work out a compromise. He did not know whether the PRC has been involved with this issue. He felt that the buck needs to stop at the Council level. He agreed with several of the comments raised by Mr. Martin in terms of having problems with the lottery. He did not want to place the City in a situation where it ends up losing, maybe driving one of the clubs away. He had doubt that additional negotiations would result in resolution. However, on the other hand, if the kids swim together they will be close to each other. He did not believe that the Council needs to go to the PRC to decide on the lane split, and that it should be the Council who should assign the split.

Ms. Spier indicated that the City wants to utilize 4 lanes for City programming. She said that at one time, the lane split was 10 and 3. Today, the split is 10 and 4 as the City gave up one lane to smooth things out.

Council Member Sellers said that one solution would be to add up the kids on each team roster and divide it by 13 lanes; you would end up with roughly 9 and 4 lane split. This is an option that the Council could use this evening. He noted that one of the swim clubs has indicated that they do not need more than 5 lanes. Should the City proceed with the lottery, you could end up with an 8-5 split. He said that the Council could decide on a 9-4 lane assignment or an assignment close to this split through the spring season. He felt that the Council needs to find resolution to this issue and move forward. Further, that the Council tries to find a long term solution that minimizes staff time and energy on the issue. He would support proceeding with the lottery or making lane assignments.

Mayor Kennedy said that he favors sending this issue to the PRC to work out the long term solution as it is their role to do so. However, he does not want staff to get bogged down on this issue, having to spend more time on this issue. He stated that he would support making a lane split this evening, referring the ultimate solution to the PRC decision. He inquired whether this recommendation would involve a lot of time.

Ms. Spier said that referral of a long term solution to the PRC would increase her workload; an appropriate referral. However, it would relieve the aquatics supervisor; an alternative that she would prefer.

City Manager Tewes said that the referral of a long term solution to the PRC would impact staff as it is staff that works with the PRC through several meetings, and would need to bring the PRC up to speed on the issue. He noted that Ms. Spier is the principal project manager for the library and that the Council has identified that they would like it built sooner rather than later. To the extent that she is working on this item, she is not working on other items.

Council Member Grzan did not believe that a long term solution would take a lot of the PRC's time. He said that he was supportive of a 9-4 lane assignment this evening; referring the long term solution to the PRC. An alternative would be to grant the authority to place swimmers in lanes as they feel necessary in order to maximize the use of the lanes.

Ms. Spier stated that staff is not responsible for swim teams or how they conduct their practices. If the Council would like staff to return with minimum or maximum use of the lanes, staff could look into this. She informed the Council that staff is responsible for the masters swim lanes and that staff tried to share them with the swim teams. However, when you get going on a lane practice and you are on a swim team, it is hard to stop to move over to another lane when a life guard requests that you move lanes. Also, the master swim participant may not wish to share lanes because of the skill levels.

Council Member Carr said that he would support making lane assignments this evening. He understands that the City would like teams to share, but did not believe that it would work to have two teams occupying the same lane(s) as different coaches will be involved. He sees an advantage of the lottery system as a team is committing itself to one lane and paying for that lane(s). He felt that it was important for the Council to move this item forward this evening. He felt that the City has professional staff on board who should be making lane assignments. He did not believe that the Council should be impacting the PRC's time when it is loading a lot of projects on them, noting that the Council has other issues to deal with as well. He said that staff has come up with a proposal to get the City through the summer. He recommended that the Council give the lottery alternative a try and get the City through the summer.

Mayor Kennedy stated that he would support the lottery alternative as it is supported by both teams.

Council Member Tate expressed concern that with the lottery system as the Council would not know how lane assignments would turn out. He said that one team could end up with thirteen balls and this would exclude the other team. He did not believe that the City should proceed on chance. He felt that a lane assignment is a better way to proceed.

Mayor Kennedy requested feedback from the two teams.

Ms. Sacco, representing the El Toro Swim Team, said that at first they were supportive of the lottery system as it was creative and fair. However, they would support a 9-4 lane split.

Mr. Rick, representing the Morgan Hill Swim Team, requested that the City place the lane assignments in writing so that he can take it back to the board for consideration. He expressed concern with reducing lanes as it would impact program growth.

Aaron Himelson said that the City is charging Mako for 11 lanes. He indicated that the lane assignments originally started at 11-2. Then it was taken to 11-3 lanes and then 11-4 lanes with the City giving up a lane.

Mr. Rick suggested a 10-3 lane split for the months of March, April and May; returning for reconsideration of lane assignments in June, July and August. He said that the Council needs to do what is in the best interest for the community.

Council Member Grzan said that it would be a bad precedent to establish a lottery system for city services. He stated his support of making lane assignments this evening with a future opportunity for reevaluation.

Council Member Sellers said that adding the number of kids in each team's roster and dividing this number by 13, results in approximately a 9-4 lane assignment (20 swimmers per lane).

City Manager Tewes said that under the Municipal Code, one of the responsibilities of the City Manager is to forward recommendations to the City Council on matters before it. He noted that staff has recommended, reluctantly, an approach to address this matter. However, if it is the Council's direction that it wants to pursue a lane assignment, he felt that the Council should have the benefit of staff's recommendation based on experience of the clubs and how the water is used. He said that based on staff's experience, the lane split should be 10-3.

**Action:** *Council Member Sellers made a motion, seconded by Mayor Kennedy, to make a 10-3 lane assignment for the two swim clubs through August. Four lanes reserved for City programming. Concurrently, the City Council asks for an evaluation of a long term solution from the Parks & Recreation Commission.*

Council Member Sellers said that in reviewing the related documents on this matter, he felt that approximately 80% of the staff work has been completed. Staff will need to sit through another long meeting where the PRC catches up and reviews the issue. The PRC can make a modification for the summer, if deemed appropriate. If it is felt that the 10-3 lane assignment is working, it can remain.

Council Member Tate said that he does not see the need for the PRC to evaluate this matter as they have other items they are working on. He noted that they only meet once a month.

Mayor Kennedy stated that this situation is far from over. He felt that the PRC needs to get involved and take over this responsibility. This will allow the Council and staff to move forward with other City business.

Council Member Sellers stated that should the PRC determine that this matter is not in their purview, they are not prepared, or do not have enough time to handle this matter, they should let the Council know.

Mayor Kennedy recommended that the PRC review this issue and return to the Council and advise whether this matter is in their purview.

Council Member Carr said that he would be agreeable to setting the lane assignment this evening. However, he expressed concern with sending this matter to the PRC. He recommended that the Council



direct staff to perform an evaluation. He noted that later this evening, the Council will be having a discussion on its work and committee assignments. He said that he would like the Council to ask its committees to identify workplans. He did not know whether the PRC would envision, in their workplan, the evaluation of lane splits between swim teams at the aquatics center. He would agree that this would not be the end of this saga and that there would be a role for the PRC. However, he did not want this matter to take precedent over anything else that the Council believes that the PRC should be doing, (e.g., outdoor recreation center, indoor recreation center, etc.). He did not believe that the Council should be making a recommendation this evening knowing that it will be changed soon, triggering lobbying efforts toward staff or the PRC. He would like to conclude lane assignments this evening, allowing staff to move forward with their summer programming in order to have a successful summer. He stated his support of the 10-3 lane split until August 2005, with staff to conduct an evaluation at the appropriate time and when they have time to do so.

Council Member Sellers clarified that the motion stipulates a 10-3 lane assignment and that the only way this lane assignment changes is if staff and/or the PRC returns to state that this lane assignment should be changed. If there is not a recommendation from staff or the PRC for a change in lane assignments, they do not change. He agreed that the Council needs to move forward this evening.

Council Member Grzan felt that the appropriate place to discuss this issue is at the PRC level as it is an appropriate decision for them to decide upon. Deferring this item to the PRC would make better use of the community and the Council's advisory group. Deferral would also allow the Council to make the best use of its time. He would like to agendize the discussion on the effective use of the Council's advisory groups. Also, to be discussed is maximizing their skills and talents to compliment those of the Council to make this a more efficient and effective city.

City Manager Tewes clarified that the current policy is that staff makes lane assignments, working with the user groups. He noted that the Council has heard evidence tonight that the policy did not work with respect to the assignments of lanes. Thus, this is the reason staff has brought this item before the Council. As staff was unable to work out the lane assignments, it is appropriate for the Council to adopt a policy. He noted that staff brought forward a recommendation this evening and that the Council has selected a different course. As the old policy did not work, it may be appropriate to give the PRC enough time so that if there are changes to the policy in the next off season time, they can forward a recommendation to the Council. He recommended that the Council allow the decision to last for a sufficient amount of time so that staff can properly evaluate the use of the lanes and move forward with other work. He felt that it would be appropriate to ask the PRC for their thoughts on a policy for allocation of lanes when groups cannot work together. This report to return to the Council prior to the next off season (e.g., winter).

**Vote:**            *Upon further clarification by the City Manager, the motion carried unanimously (5-0).*

**20.    AUTHORIZE APPLICATION TO MORGAN HILL AQUATIC CENTER, INC. FOR  
SUBSIDY FUNDING OF SWIM TEAM LANE USE**

Recreation and Community Services Manager Spier requested Council authorization to submit a letter requesting funding on behalf of all users of the 50-meter competition pool. She said that staff will need to go back and analyze the amount of subsidy needed. She clarified that the request would be to subsidize both swim teams and the masters swim programs. She said that the subsidy would be applied toward the operation of the 50-meter competition pool.

Mayor Kennedy opened the floor to public comment. Donna Cretcher stated that she appreciates the fact that the City came up with a policy based on the discussion held last week. She stated her support of the application for subsidy. No further comments were offered.

Council Member Sellers expressed concern with two items that surfaced last week. He said that the Council heard that the foundation organization itself does not have a regular meeting schedule and has a relatively small organizational structure. He said that it is the responsibility of the Council to make sure that it is entering into agreements with entities that are operating in a manner that is appropriate. He inquired whether there are legal issues or other issues that the Council needs to take a look at with regards to the foundation, to see if they are operating in a manner according to law. He requested that the organization better reflect what it does, and that they consider changing their name to the Morgan Hill Aquatics Foundation or a name more appropriate to their venue, so that they are not perceived as a City entity.

City Attorney Leichter said that there are a couple of options for the Council to consider. She stated that she could contact the president of the organization and conduct an informal question and answer session to determine whether they are complying with the non profit corporation law and the purpose stated in their articles of incorporation, should the Council wish her to do so. She said that there were other concerns raised last week that she is looking into, from a Council perspective, as opposed to whether the organization itself is complying with non profit corporation law.

City Manager Tewes informed the Council that the City has adopted an administrative policy entitled "Donation Policy." This policy provides that a certain amount of cash can be accepted on behalf of the City and that facilities can be accepted. He said that at certain monetary levels, it requires Council approval. Therefore, staff would follow this policy and bring these matters back to the Council. He said that it is not City staff's practice to apply to every nonprofit organization for support. He said that staff is applying for funding from this particular foundation because it is organized solely for the purpose of supporting the constructing and operation of the City's aquatic center.

Council Member Grzan inquired whether funding received would have to be returned, if it is found that a foundation was not operating in compliance with the non profit corporation laws.

City Attorney Leichter stated that she is not aware of any case, provision, or attorney general opinion under the non profit corporation law, that would require that a recipient of funds from a non profit organization not operating within the parameters of the law, to be returned. However, there is a separate legal issue about the unfair business practices to which she is looking at. She did not believe that this situation rises to that level.

Mayor Pro Tempore Tate agreed with the concerns expressed and felt that they would be easy to resolve, including the name change. He stated that the foundation was established to support the aquatics center and felt that the City should seek funding to support the aquatics center.

**Action:** *On a motion by Mayor Pro Tempore Tate and seconded by Council Member Carr, the City Council unanimously (5-0) **Directed** Staff to Submit an Application to Morgan Hill Aquatic Center, Inc. for Subsidy Funding in Support of Swim Team Lane Use.*

## **21. WATER CONSERVATION ACTIVITY REPORT AND APPROPRIATION**

Programs Manager Eulo presented the staff report, sharing some of the City's recent progress in terms of the City's water conservation workplan, and requested Council appropriation relating to the development of a water conservation demonstration garden. He addressed the six separate activities that staff is working on, (e.g., proposed water conserving rate structure for landscaping; water efficient landscaping ordinance; multi family ordinance; retrofit at resale ordinance; economic incentive program; and the conservation demonstration garden). He indicated that the Water District is intending to implement a similar economic incentive program. Staff believes that it would make sense for the City to augment their program. However, he noted that the Water District has severe budget issues. Until the City is certain that they will be proceeding with this program, staff will not return to the Council with additional appropriation, but it would make sense for the City to consider making an additional appropriation to augment the Water District's program. This program would provide incentives for landscapes in Morgan Hill to be retrofitted.

Council Member Grzan stated that he has a passion for the use of California native plants, and felt that they would add to the rural character of Morgan Hill if incorporated in the City's construction projects. Further, that native plants would assist with water conservation efforts.

Council Member Carr concurred that the professionals can meet both goals as identified by Council Member Grzan.

Mr. Eulo informed the Council that it was staff's belief that it would be possible to incorporate more California native plants. He said that the request before the Council is a request for authorization to allow staff to enter into a contract to design the construction documents. He said that staff would ask the professionals to take a look at using California native plants and make needed improvements.

Council Member Sellers recommended that planning staff use the water conservation garden as an example when talking to developers. He stated that he was pleased to see that a water conservation re-landscaping project is being proposed. He recommended that staff publicize this program.

Mayor Pro Tempore Tate indicated that the California Department of Forestry has a demonstration garden that is fire resistant. He recommended that staff investigate fire resistant landscape material.

Mr. Eulo stated that as the civic center campus develops with the library site, there will be opportunity for education relating to landscaping.

Mayor Kennedy opened the floor to public comment. Chris Bryant said that it was his hope that the City does not remove sod in the civic center only to plant it elsewhere, (e.g., indoor recreation center or the library). It is his hope that these same concepts are applied in the landscaping of new civic projects. No further comments were offered.

Mr. Eulo said that staff has reviewed the landscape plans for the indoor recreation center, noting that very minimal amount of turf will be applied. He said that staff will try to keep the use of sod to a minimum.

**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Directed** Staff to Prepare Public Bid Documents for the Construction of a Demonstration Water Conservation Garden at City Hall.*

**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Appropriated** \$13,000 From Unappropriated Fund Balance in Water Operations Bund (650) for the Development of Construction Documents for the Demonstration Water Conservation Garden Project, CIP #126005.*

## **22. INDIAN TRIBE DEVELOPMENT PROPOSALS**

City Manager Tewes indicated that from time the time, the Council has asked for the opportunity to discuss the City's involvement of some informal meetings called by elected officials and administrators from Gilroy, Hollister, San Benito County and San Juan Bautista. He informed the Council that these agencies have been learning about two development proposals by Indian tribes. He stated that no recommendations have been suggested at this point. He requested that the Council discuss the extent to which the Mayor, others, he or other staff should participate in these projects. He indicated that both proposals involve bringing lands into a "Trust" relationship. He said that two landless Indian tribes are seeking to bring certain geographic space into Trust. One of these tribes will be proposing casino gambling. He said that under recent amendments in federal laws relating to Indian affairs, there is a national commission on Indian gaming who has to approve certain types of gaming. He informed the Council that the type of gaming being proposed requires a compact with the State of California. He indicated that the compact has not been applied for. The second proposal is by an unrecognized Federal tribe for the Sargent Ranch with no Indian gaming proposal. What is proposed is 3,000 acres to be urbanized. He said that this proposal is of concern as it is a large development activity. There is concern for the process on how development is to be approved. Should the land be brought into trust, it would be managed by a sovereign nation and would not be subject to the laws of the State of California with respect to CEQA and other matters. He said that it has been learned that the decision to bring land into to trust is the type of decision that requires environmental review by the Federal government under the National Environmental Policy Act. It is not clear to him the extent to which the environmental review would go into the ultimate development opportunities. He indicated that this is the issue being discussed by the informal group. He stated that the policy question is to what extent the City Council wishes city government and staff to be involved in these discussions.

Council Member Tate felt that the Council wants to stay informed on what is taking place in the region. It was his belief that the process to be followed is the one established at the retreat when the Council established a regional planning and transportation committee who would look at these types of issues. Should the Mayor get invited to a session, he should bring back information to the appropriate standing committee that looks at the various issues. He stated that the City does not need another Coyote Valley to the south and that he would be concerned about understanding what is being proposed.

Mayor Kennedy indicated that the Mayors of Hollister and Gilroy and he, including city managers from these cities as well as a representative from the San Benito County Board of Supervisors, were invited to a meeting. He did not believe that this was a conflict as under the proposed new working relationships for committees and that he would be on the regional committee. However, there may be some issues where this may not be the case and that it was his belief that it would be appropriate for the Mayor to attend (exceptions). He felt that there is a policy discussion that the Council needs to have on this particular issue.

Council Member Sellers concurred that the City needs to monitor this issue. He felt that the City needs to be cognizant of what is being planned. Should the Indian gaming casino or development proceed, the Council needs to start talking with the proponents as well as the other entities to be impacted. He felt that the City needs to do everything possible to oppose these projects as they will become a developmental disaster for the entire region. However, the City needs to be cognizant about the fact that the City does not get to decide on either of these cases, to a large degree. He felt that it is important to figure out a way to develop a strategy for how the City would make sure that its concerns are mitigated at the front end. He recommended that the City start to think about the mitigations to be imposed should these projects proceed.

Council Member Carr agreed that the City should stay involved via the committee structure. He was pleased that Mayor Kennedy has been participating in the discussions of these two projects and that he would continue to do so. He said that he did not know enough about either project to support or oppose them. It was his hope that this information would be brought back to the Council so that it can discuss the possible impacts. This would allow the City to be prepared to talk about the mitigation measures that should be imposed. As this is a regional discussion of where the projects are being proposed, he was pleased that Morgan Hill was invited to be a part of the discussions.

Mayor Kennedy informed the Council that the project proponents were in attendance at the last meeting and made a presentation about their proposals.

Council Member Sellers concurred with Mayor Pro Tempore Tate that as Mayor Kennedy attends these meetings, he should report back to the committee and to the Council, as deemed appropriate.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:**        *No action taken.*

## **23.    EVALUATION OF SYSTEM OF COMMITTEES AND COMMISSIONS**

City Manager Tewes indicated that last year the Council gave him an ambitious project; evaluating the committee system with three goals in mind: 1) prepares recommendations to reduce costs; 2) enhances communications, and 3) improves the decision making process. With respect to the way the Council organizes itself, he said that it would be preferable to shift from the current practice of having a series of ad hoc or single subject committees to five standing committees. He indicated that the staff report outlines the proposed jurisdiction of the five standing committees. It is being recommended that each committee consist of two members of the Council who would serve two-year terms, after an initial appointment period. With regard to Council liaison assignments, he recommended the following: 1) the number of liaison assignments to city commissions be limited to two – a) the Parks & Recreation Commission, and b) the Library Commission. For the liaison assignments to outside organizations, he recommended that the Council appoint members on the Council who sit on relevant standing committees that are similar in subject matter. With respect to citizen committees, commissions and task forces, he did not recommend significant changes to the reporting relationships or the number of such committees or commissions. However, he did recommend a slight modification in the responsibility of the Parks & Recreation Commission to exclude the responsibility of “cultural facility.” He suggested that this assignment and any issues relating to public art be assigned to a different commission. He recommended that the Library Commission’s duties be expanded to include these items and that it remain the “Library, Cultural and Arts Commission.” He requested that the Council consider the report and recommendations and that the Council request that the Library and Parks & Recreation Commission comment on these recommendations. Further, that each citizen commission prepares work plans for Council consideration during the annual budget process.

Mayor Kennedy indicated that the Council discussed this item at the Council’s goal setting retreat and that it talked about the five recommended committees. He recommended that the Council decide whether there is consensus on the items as identified in the City Manager’s report.

Council Member Sellers stated that he would support staff’s recommended action, noting that it is being recommended that the Council consider the recommendation and does not assign Council members to each of the committees.

Mayor Kennedy recommended that Council assignments to the five committees be identified at this time.

Council Member Tate noted that it would be expected that the Mayor participate on certain committees. If the Mayor reports to a Council committee on a subject, it may result in a Brown Act violation as you cannot have three Council members discussing city business. He felt that the Council needs to work out some of the issues associated with cross assignments. He recommended that the Council be flexible in determining how this would work.

Mayor Kennedy felt that should a report be made by a Council member; the report be presented to the entire Council. This would prevent a Brown Act violation in reporting to a two-member subcommittee.

City Attorney Leichter indicated that if a report is simply factual, this would not necessarily cause a Brown Act Violation. As long as the dialogue is not trying to reach a consensus when there are three council members in attendance at a committee meeting, there is no violation.

Mayor Kennedy said that under the Financial Policy Committee, the Council discussed adding legal affairs to this committee. He said that the Council discussed allowing City Treasurer Roorda to participate under this committee as the Finance & Audit Committee would be eliminated.

Council Member Sellers recommended that the City Treasurer be allowed to participate in the financial aspect of this committee. He said that the agenda could be structured such that Mr. Roorda could be in attendance for the financial portion and excuse himself from the legal affairs portion of the meeting.

Council Member Grzan indicated that the purpose for the establishment of the five committees is to provide cost reductions, improve communications and improve decision making. It was his hope that the City would be able to measure what they are to be doing. He expressed concern with the following: 1) there may be filtering in the process where the Council is not provided with all recommendations discussed by the committee; 2) duplication of efforts such that committees will discuss an item and then rediscuss it before the entire Council; and 3) staff time will be used at committee meetings and would be used again to make the presentation before the Council. He stated that he sees inefficiencies in this process.

City Manager Tewes stated that the purpose for his recommendation is to improve Council policy making decisions by having a complex policy analysis. In the end, the evaluation of the success would be the self evaluation by the members of the Council.

Council Member Sellers indicated that the concerns raised by Council Member Grzan are always concerns, and that Council members need to be vigilant to avoid these concerns. He said that the Council has found that committees can get into issues in more detail. This allows for shorter discussions at the Council level and that it has been found that there is less staff time involvement. He said that there may be times that a committee does not want to take on an issue and recommends that the issue go directly to the Council. He noted that most of the committees meet as needed and based on urgency.

Mayor Kennedy indicated that the Council has not discussed whether every issue needs to be presented to the committees before being presented to the entire Council. It is his hope that this was not the case.

Council Member Grzan stated that he was not sure as to the committees' framework and that their responsibilities and jurisdiction are not clear.

Mayor Pro Tempore Tate disagreed with Council Member Grzan's filtering comment. He felt that to the extent that an item can be filtered, it should be filtered so that the Council can focus on the issue.

Council Member Grzan said that a committee member may shape the direction that is presented to the Council. He did not believe that this would not be an overt action, but may be subtle enough to take place. If the Council does not proceed with the establishment of all these committees, the Council would

be reviewing and addressing every item. This is the advantage of having a week to week Council meeting, having staff present the report to the Council. He felt that the establishment of committees contains some inefficiencies and positive aspects as well.

Mayor Kennedy inquired what would trigger action items going to these committees.

City Manager Tewes said that as envisioned, these committees would act as servants to the entire Council. The committees would not direct staff or shape staff recommendations. The committee's job is to provide analysis and recommendations to the full Council. He would expect the Council may assign issues to one or more of the committees as they arise. As the committees have an established jurisdiction, the committees would be subject to Brown Act requirements (e.g., agendas, minutes and holding regularly scheduled meetings). He said that it may be appropriate for the Council to identify the kinds of topics committees would be working on.

Council Member Grzan inquired whether the committee structure would be taking away some of the responsibilities of the Parks & Recreation Commission. He felt that this Commission is capable of reviewing topics for the Council and that they were the appropriate body to review policies and forward recommendations. He felt that making better use of the Council's commissions would make the City a more effective organization.

Council Member Carr said that when the Council worked through how to ask the City Manager to take on this assignment a year ago at its retreat, the Council was facing a couple of issues that led him to think about how government works in Morgan Hill. He noted that the second attempt to receive funding for the library via a bond measure failed. The Council discussed how it was to build and pay for the construction of a new library. The Council decided to look at the whole issue about the library and how it would be accomplished. This led him to believe that it should be done differently from how it was done in the past as it was awkward, cumbersome and difficult. He said that the subcommittee assigned by the Council gathered a lot of information that was brought before the Council. All questions he would have asked, were asked and answered by the committee in a report that he was able to read before the Council meeting. He felt that the Council should always get information and answers to questions, including the discussions that take place at the committee levels. He noted that the Council appointed another subcommittee with regards to the Walnut Grove PUD. He did not believe that this subcommittee was efficient and that he was tired of the Council setting up special subcommittees to address various issues. In thinking about how the Council structures things and has its own dialogue and decision making authority, it was his hope that everything would fall in line with better communication throughout the community to achieve a better decision making process. He recommended that the five standing committee recommendation be given a try to see how they work.

Council Member Grzan stated that he was willing to give the recommendation a try. However, he felt that there were other commissions in place who could consider items that will be heard by the Committee and the Council. This would result in a committee doing more of the commission's work.

Mayor Pro Tempore Tate agreed that the Council has to receive work plans to make sure that there is no overlap in the review, discussion and recommendations on various topics/issues.



Council Member Grzan felt that there would be multiple work plans and that staff would be overwhelmed.

Mayor Kennedy recommended that the Financial Policy and Legal Affairs Committee be implemented. With regards to the Regional Planning and Transportation Committee, he noted that the Council has a legislative committee. He felt that this subcommittee would fall under this committee.

City Manager Tewes clarified that as recommended, legislative issues in the subject areas of the five committees would be addressed by each committee.

Council Member Carr indicated that the Community Services Committee would address schools and education.

Mayor Kennedy felt that the Utilities, Environment & Sewer Enterprise Committee would include SCRWA.

Council Member Grzan did not support the establishment of all five committees. He would support the creation of the Regional Planning and Transportation Committee. With regards to Public Safety and Community Services Committee, he felt that there are commissions in place to do some of the work items. Therefore, he was not supportive of this committee. He was looking at how these council committees would address items that are already being addressed by existing subcommittee groups. He stated that he would not have established some of the ad hoc committees such as the aquatics subcommittee as he would have had the Parks & Recreation Commission review items/issues.

Mayor Kennedy indicated that there are problems with all special assignments, ad hoc committees, etc. It was the intent to cover as much of the areas where issues might come up so that the Council does not have to create an ad hoc committee or make special assignments. The Council would refer an issue where special work is needed and would, in turn, be addressed by one of these committees.

Council Member Sellers said that he would support moving forward with staff's recommended action and try this approach.

Mayor Kennedy opened the floor to public comment. No comments were offered.

**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council, on a 4-0-1 vote with Council Member Grzan abstaining, **Directed** Staff to Request the Library Commission and the Parks and Recreation Commission to Comment on the Suggestions for Modifications in Their Scope of Responsibility.*

**Action:** *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council, on a 4-0-1 vote with Council Member Grzan abstaining, **Directed** Staff to Request All Citizen Commissions to Prepare Work Plans for Consideration during the Annual Budget Process.*

**Action:**      *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council, on a 4-0-1 vote with Council Member Grzan abstaining, **Made** the following Council Committee Assignments:*

*Financial Policy & Legal Affairs: Mayor Pro Tempore Tate (chair), Councilmember Grzan  
Regional Planning & Transportation: Mayor Kennedy (chair), Councilmember Sellers  
Community and Economic Development: Councilmember Sellers (chair), Councilmember Carr  
Utilities and Environment Committee: Councilmember Grzan (chair), Mayor Kennedy  
Public Safety & Community Services: Councilmember Carr (chair), Mayor Pro Tempore Tate*

## **24. REVIEW OF CITY COUNCIL COMMITTEES AND APPOINTMENTS TO OUTSIDE AGENCIES (Continued from 1/19/05)**

The City Council reviewed specific committees and outside agency assignments.

**Action:**      *On a motion by Council Member Sellers and seconded by Mayor Pro Tempore Tate, the City Council unanimously (5-0) **Approved** the Mayor's Appointment of Council Members to Serve on the Various Council Committees and Outside Agencies as follows:*

<b><u>Committee/Outside Agency</u></b>	<b><u>Assignments</u></b>
Association of Bay Area Governments (ABAG)	(P) Kennedy (A) Sellers
City/School Liaison Committee Morgan Hill Unified School District	(P) Carr (P) Tate (A) Sellers
Corporation Yard Commission	(P) Sellers (P) Grzan
Morgan Hill Chamber of Commerce	(P) Kennedy (A) Sellers
Pajaro River Watershed Flood Prevention Authority	(P) Grzan (A) Kennedy
Santa Clara County Cities Association Board	(P) Kennedy (A) Sellers
Santa Clara County Cities Association Board Joint Policy Collaborative	(P) Kennedy
Santa Clara County Cities Association Representative to the Airport Land Use Commission	(P) Kennedy (5/1/08)
Santa Clara County Cities Association Legislative Action Committee	(P) Sellers (A) Kennedy

Santa Clara County Emergency Preparedness Council	(P) Tate (A) Carr
Santa Clara County Housing & Community Development Council Committee	(P) Carr (A) Sellers
Santa Clara County Library District Joint Powers Authority	(P) Tate (A) Carr
Santa Clara Valley Transportation Authority MGM Group 4; VTA Board Representative	(P) Kennedy (A) Sellers
Santa Clara Valley Transportation Authority Policy Advisory Committee (PAC)	(P) Sellers (A) Kennedy
Santa Clara Valley Transportation Authority Caltrain Policy Advisory Board (PAB) <i>Not planning to meet in 2005</i>	(P) Sellers (A) Kennedy
Santa Clara Valley Transportation Authority Board of Directors (Alternate member)	(P) Kennedy
Santa Clara Valley Transportation Authority South County Roadways Policy Advisory Board	(P) Sellers (A) Kennedy
Santa Clara Valley Water Commission	(P) Grzan (A) Ashcraft
Santa Clara Valley Water District Elected Officials Quarterly Meeting (PL 566)	(P) Kennedy (A) Grzan
<i>Santa Clara Valley Water District - Coyote Flood Control &amp; Water Advisory Committee</i>	<i>(P) Kennedy</i> <i>(A) Grzan</i> (A) Ashcraft
Santa Clara Valley Water District - Uvas/Llagas Flood Control & Water Advisory Committee	(P) Kennedy (A) Grzan (A) Ashcraft
Sister City Committee	(P) Kennedy (A) Tate
South County Joint Planning Advisory Committee	(P) Sellers (A) Carr
South County Regional Wastewater Authority (SCRWA)	(P) Kennedy, (P) Carr (A) Sellers, (A) Tate, (A) Grzan

**Standing Committees**

Financial Policy and Legal Affairs	(P) Tate, (A) Grzan
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Regional Planning and Transportation  
Community and Economic Development  
Utilities and Environmental  
Public Safety and Community Services

(P) Kennedy, (A) Sellers  
(P) Sellers, (A) Carr  
(P) Grzan (A) Kennedy  
(P) Carr, (A) Tate

#### **CITY LIAISON ASSIGNMENTS**

##### **Committee**

Ethics Subcommittee  
Morgan Hill Community Health Foundation  
Parks & Recreation  
Library Committee  
Saint Catherine's Day Worker Committee  
Urban Limit Line (Greenbelt) Study  
Youth Empowered for Success  
Centennial Committee

##### **Assignments**

(P) Kennedy; (P) Tate  
(P) Sellers, (P) Tate, (A) Grzan  
(P) Carr  
(P) Tate  
(P) Kennedy  
(P) Kennedy, (P) Grzan  
(P) Tate, (A) Carr  
(P) Kennedy, (P) Sellers

**Action:**      *On a motion by Council Member and seconded by Council Member, the City Council unanimously (5-0) **Directed** the City Clerk to Notify the Appropriate Agencies of Amended Assignments.*

#### **FUTURE COUNCIL-INITIATED AGENDA ITEMS**

Resolution in Support of the Tsunami Fundraising Effort (Mayor Kennedy).

#### **ADJOURNMENT**

There being no further business, Mayor/Chairman Kennedy adjourned the meeting at 11:20 p.m.

**MINUTES RECORDED AND PREPARED BY:**

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**IRMA TORREZ, CITY CLERK/AGENCY SECRETARY**